

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Before the Board of Patent Appeals and Interferences**

**In re the Application**

**Inventer** : **N. D. P. Leurs**  
**Application No.** : **10/533,753**  
**Filed** : **May 4, 2005**  
**For** : **APPARATUS AND METHOD TO PROVIDE A  
RECOMMENDATION OF CONTENT**

**RESPONSE TO THE NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF  
AND APPEAL BRIEF**

**On Appeal from Group Art Unit 2164**

**Date: April 8, 2009**

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**I. REAL PARTY IN INTEREST**

The real party in interest is the assignee of the present application, Koninklijke Philips Electronics N.V., and not the party named in the above caption.

**II. RELATED APPEALS AND INTERFERENCES**

With regard to identifying by number and filing date all other appeals or interferences known to Appellant which will directly effect or be directly affected by or have a bearing on the Board's decision in this appeal, Appellant is not aware of any such appeals or interferences.

**III. STATUS OF CLAIMS**

Claims 1-26 have been presented for examination. Claims 1, 8-9, 11-15 and 17-26 are pending, stand finally rejected, and form the subject matter of the present appeal. Claims 2-7, 10 and 16 have cancelled without prejudice.

**IV. STATUS OF AMENDMENTS**

This appeal is in response to an Office Action, dated March 14, 2008 and a Final Office Action, dated September 12, 2008. Claims 1, 8-9, 11-15 and 17-26 stand rejected under 35 USC 103(b) as being unpatentable over Crabtree et al. (US 2004/0039814 A1) in view of Specter et al. (U.S. 2002/0147628 A1). On November 26, 2008, an Advisory Action was entered into the record. The Advisory Action stated that Request for Reconsideration filed on November 12, 2008, was not persuasive. In response, a Notice of Appeal was filed on December 12, 2008.

**V. SUMMARY OF CLAIMED SUBJECT MATTER**

The instant application includes independent claims 1, 17 and 24. Claim 1 recites A method of providing a recommendation of content to a user, the method comprising the steps of determining a user preference profile, (See page 8, lines 14-25; Fig. 2) detecting a content item interest, determining that the content item interest does not correspond to the user preference profile, (See page 8, lines 25-35; Fig. 2) determining a temporary user preference profile in response to the content item interest not corresponding to the user preference profile, (See page 9, lines 7-15; Fig. 2) recommending a number of preference content items associated with the temporary user preference profile, determining user preference values of the recommended content items, wherein the number of recommended content items depends on the determined user preference values, (See page 9, lines 16-23; Fig. 2) and depending on the determined user preference values, modifying the user preference profile to reflect the temporary user preference profile. (See page 10, lines 17-21; Fig. 2).

The method in independent claim 17 recites a recommender for providing a recommendation of content to a user, the recommender comprising a recommender processor for determining a user preference profile (see page 7, lines 18-21; Fig. 1), a user interface controller for detecting a content item interest after receiving a selection of multiple content items; (see page 7, lines 11-17; Fig. 1), wherein the recommender processor is operable to determine that the content item interest does not correspond to the user preference profile, determine a temporary user preference profile in response to

the content item interest failing to correspond to the user preference profile, recommend a number of preference content items associated with the temporary user preference profile, determine that other content items associated with the temporary user preference profile achieve high user preference values, wherein the number of recommended content items is determined in dependence on the determined user preference values; and modify the user preference profile to reflect the temporary user preference profile. (See page 8, lines 8-10; Fig.1; page 9, lines 16-23; page 10, lines 17-21)

Independent claim 24 recites a computer readable storage medium containing instructions which, when executed by a processor, cause the processor to carry out a method that includes determining a user preference profile, (See page 8, lines 14-25; Fig. 2) detecting a content item interest, determining that the content item interest does not correspond to the user preference profile, (See page 8, lines 25-35; Fig. 2) determining a temporary user preference profile in response to the content item interest not corresponding to the user preference profile, (See page 9, lines 7-15; Fig. 2) recommending a number of preference content items associated with the temporary user preference profile, determining user preference values of the recommended content items, wherein the number of recommended content items depends on the determined user preference values, (See page 9, lines 16-23; Fig. 2) and depending on the determined user preference values, modifying the user preference profile to reflect the temporary user preference profile. (See page 10, lines 17-21; Fig. 2; page 13, lines 10-17).

Claims 2, 9-8, 11-15, 18-23 and 25-26 ultimately depend from one of the independent above claims and recite further aspects of the invention claimed.

**VI. GROUND FOR REJECTION TO BE REVIEWED ON APPEAL**

The matter at issue on appeal is:

- (1) Whether claims 1, 8-9, 11-15, 17 and 19-23 are invalidly rejected under 35 U.S.C. 103(a) as being unpatentable over Crabtree et al. (US 2004/0039814 A1) in view of Specter et al. (U.S. 2002/0147628 A1); and whether claims 24-26 are invalidly rejected under 35 USC 103(a) as being unpatentable over Crabtree et al. (US 2004/0039814 A1) in view of Hane (U.S. 2004/0083490 A1); and whether claim 18 is invalidly rejected under 35 USC 103(a) as being unpatentable over Crabtree et al. in view of Specter and in further view of Huper-Graff et al. (U.S. 2004/0044677 A1).

**VII. ARGUMENT**

**(1) Rejection of independent claims 1, 17 and 24**

Appellants respectfully submit that the rejection of claims 1, 8-9, 11-15, 17 and 19-23 stand rejected under 35 USC 103(a) as being unpatentable over Crabtree et al. (US

2004/0039814 A1) in view of Specter et al. (U.S. 2002/0147628 A1) is in error as the references fail to show a limitation cited in the independent claims.

Applicants respectfully submit that the pending claims are patentable for at least the following reasons. Claim 1 recites the “...determining a temporary user preference profile in response to the content item interest not corresponding to the user preference profile, recommending a number of preference content items associated with the temporary user preference profile, determining user preference values of the recommended content items, wherein the number of recommended content items depends on the determined user preference values; and depending on the determined user preference values, modifying the user preference profile to reflect the temporary user preference profile.” Independent claims 17 and 24 recite similar limitations. Neither Crabtree nor Specter, alone or in combination, teaches these limitations.

The Final Office Action points to paragraphs 77-85 of Crabtree indicating that it discloses “determining a temporary user preference profile in response to the content item interest not corresponding to the user preference profile, Applicants respectfully disagree. In paragraphs 77-85 Crabtree teaches a method to update an existing profile with a new interest 11. The interest 11 is passed to the profile modifier 301 as a result of collaborative filtering of interests between users. See paragraph 77. Thus, Crabtree does not teach determining a temporary user preference profile ..., but update method for a new interest of low priority. Further, the profile modifier 301 creates a suggestion action 305, the suggestion being that new interest 11 should be added to the user profile... See paragraph 77. Although a user may select the new interest 11 for a “trial” period and then be asked whether to add it to the user’s profile, it still does not teach determining a

*temporary user preference profile* but modifying an existing one. Thus, Crabtree does not teach “a temporary user preference profile in response to the content item interest not corresponding to the user preference profile” as claimed in claim 1, but, a selectable profile update method.

The Advisory Action further argues that “Crabtree teaches that a user may add the interest to his/her profiles for a week (paragraph 80) and after the week is up, the user may decided not to keep that changes, in which case his/her profile reverts back to the original settings (paragraph 85). “ However, applicants respectfully disagree that these sections of Crabtree teaches “determining a temporary user preference profile in response to the content item interest...”, as claimed. The above section still teaches only modifying an existing user profile, sometimes only temporarily. The present invention teaches a new temporary user preference profile see page 8, lines 8-10:

In the preferred embodiment, the PVR 101 is further operable to determine a temporary user preference profile. This temporary user preference profile may be stored in a temporary user preference profile memory 115 coupled to the recommender processor 111.

And page 9, lines 7-15:

If the selected content item does not match the user preference profile, the method continues in step 207 wherein a temporary user preference profile is determined in response to the selected content item. Thus, a new temporary user preference profile is generated, which in the preferred embodiment is initialized with a positive preference value for the one or more of categories to which the content item belongs. Thus, if a user who is not normally interested in sport, and therefore has a low preference value for sport in the user preference profile, selects a content item consisting in a TV programme of, for example, a football match at the Olympic Games, the temporary user preference profile may be started with a positive preference value for the categories of Sport, Football and the Olympic Games.



Importantly, the present invention's temporary preference profile may be used to test content items not directly matching the user's current preference profile, thereby allowing an increased flexibility and possibility of improved dynamic performance, by recommending a number of preference content items associated with the temporary user preference profile, determining user preference values of the recommended content items, wherein the number of recommended content items depends on the determined user preference values, and depending on the determined user preference values, *modifying the user preference profile to reflect the temporary user preference profile, as claimed.* Moreover, the temporary user preference profile may allow alternative and/or additional preferences to be tested, and if suitable to be added to the user preference profile. Thus, a widening mechanism may be introduced to the user preference profile, thereby opposing the narrowing effect caused by a limited recommendation of content for preference evaluation.

The Final Office Action points to paragraphs 79 & 87 of Crabtree indicating that it discloses the limitations of "recommending a number of preference content items associated with the temporary user preference profile, recommending a number of preference content items associated with the temporary user preference profile." Applicants again respectfully disagree. In paragraph 79, Crabtree teaches that like stories e.g. related to the "new interest", will be provided to a user if the new interested is added to his/her profile. In paragraph 87, Crabtree teaches that based on the number of times a user accesses information relating to the suggested interest 11, the interest can be added to the user profile. Nothing in either of these sections teaches recommending a number of preference content items *associated with the temporary user preference profile*, and

recommending a number of preference content items associated with the temporary user preference profile, as claimed in the present invention.

As further indicated by the Final Office Action, Crabtree fails to teach determining user preference values. The addition of Specter fails to cure the limitations of Crabtree. Neither, Crabtree or Specter teaches the use of a temporary user preference profile, but instead teach an update method to modify an original user profile.

It is respectfully submitted that in order to establish a *prima facie* case of obviousness, three basic criteria must be met;

1. there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine the reference teachings;
2. there must be a reasonable expectation of success; and
3. the prior art reference must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)

Having shown that Crabtree or Specter fail to disclose each and every element claimed, applicant submits that the reason for the Examiner's rejection of method claim 1 has been overcome and can no longer be sustained. Applicants respectfully submit that independent claim 17 and 24 are allowable for at least the same reasons as independent claim 1. Applicant respectfully requests reconsideration, withdrawal of the rejection and allowance of claims 1, 17 and 24.

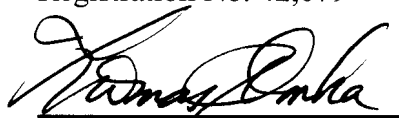
With regard to the dependent claims 2, 9-8, 11-15, 18-23 and 25-26 these claims ultimately depend from one of the independent claims 1, 17 or 24, which have been

shown to be allowable in view of the cited references. Accordingly, claims 2, 9-8, 11-15, 18-23 and 25-26 are also allowable by virtue of their dependence from an allowable base claim.

### **VIII. CONCLUSION**

In view of the above analysis, it is respectfully submitted that the referred to references fails to render obvious the subject matter of any of the present claims. Therefore, reversal of all outstanding grounds of rejection is respectfully solicited.

Respectfully submitted,  
Daniel Piotrowski  
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A handwritten signature in black ink, appearing to read 'Thomas J. Onka', written over a horizontal line.

By: Thomas J. Onka  
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Date: February 8, 2009

**IX. CLAIMS APPENDIX**

1. (Previously Presented) A method of providing a recommendation of content to a user, the method comprising the steps of:
  - determining a user preference profile;
  - detecting a content item interest;
  - determining that the content item interest does not correspond to the user preference profile;
  - determining a temporary user preference profile in response to the content item interest not corresponding to the user preference profile;
  - recommending a number of preference content items associated with the temporary user preference profile;
  - determining user preference values of the recommended content items, wherein the number of recommended content items depends on the determined user preference values; and
  - depending on the determined user preference values, modifying the user preference profile to reflect the temporary user preference profile.
2. (Cancelled)
3. (Cancelled)
4. (Cancelled)
5. (Cancelled)
6. (Cancelled)
7. (Cancelled)

8. (Previously Presented) A method as claimed in claim 1, wherein the modification of the user preference profile is realized by including a user preference profile addition.

9. (Original) A method as claimed in claim 8, wherein the user preference profile addition is temporary.

10. (Cancelled)

11. (Original) A method as claimed in claim 1, wherein the content item interest is detected from a detection of a user selection of a content item.

12. (Original) A method as claimed in claim 11, further comprising the step of recommending the content item for initial selection.

13. (Previously Presented) A method as claimed in claim 12, wherein the recommendation of the content item is in response to an increase of preference values of other users for content items associated with the content item.

14. (Original) A method as claimed in claim 1, further comprising the step of receiving topic interest information from an external source and wherein the content item interest is detected in response to the topic interest information.

15. (Previously Presented) A method as claimed in claim 14, wherein the external source comprises at least one source chosen from the group of:

- a. newspapers;
- b. websites; and
- c. broadcast sources.

16. (Cancelled)

17. (Previously Presented) A recommender for providing a recommendation of content to a user, the recommender comprising:
- a recommender processor for determining a user preference profile;
  - a user interface controller for detecting a content item interest after receiving a selection of multiple content items;
  - wherein the recommender processor is operable to:
    - determine that the content item interest does not correspond to the user preference profile;
    - determine a temporary user preference profile in response to the content item interest failing to correspond to the user preference profile;
    - recommend a number of preference content items associated with the temporary user preference profile;
    - determine that other content items associated with the temporary user preference profile achieve high user preference values, wherein the number of recommended content items is determined in dependence on the determined user preference values; and
    - modify the user preference profile to reflect the temporary user preference profile.
18. (Original) A private video recorder comprising a recommender as claimed in claim 17.
19. (Previously Presented) The method of claim 1 wherein the number of recommended content items depends on a selection rate of the recommended content items.
20. (Previously Presented) The method of claim 1 wherein the number of recommended content items depends on the user's rating of a recommended content item.
21. (Previously Presented) The method of claim 1 wherein the number of recommended content items depends on a selection rate of the recommended content items and the user's rating of the selected content items.

22. (Previously Presented) The method of claim 1 including recommending a relatively greater number of content items if the determined preference values are relatively conclusive of an interest in or a disinterest in the recommended content items and a relatively lower number of content items if the determined preferences values are relatively inconclusive of an interest in or a disinterest in the recommended content items.

23. (Previously Presented) The method of claim 1 wherein the content interest belongs to a first category and a second category and recommending includes recommending a first content item that belongs to the first category and a second content item that belongs to the second category, determining includes determining user preference values for the first and second content items, wherein the method includes updating the temporary user preference profile to reflect the user preferences for the first and second content items.

24. (Previously Presented) A computer readable storage medium containing instructions which, when executed by a processor, cause the processor to carry out a method that includes:

- determining a user preference profile;
- detecting a content item interest;
- determining that the content item interest does not correspond to the user preference profile;
- determining a temporary user preference profile in response to the content item interest not corresponding to the user preference profile;
- recommending a number of content items associated with the temporary user preference profile;
- determining user preference values for the recommended content items;
- using the determined user preference values to generate a preference value for the temporary user preference profile;
- depending on the generated preference value, modifying the user preference profile to reflect the temporary user preference profile.

25. (Previously Presented) The computer readable storage medium of claim 24 including determining the number of recommended content items in dependence on the user's interest in the recommended content items.

26. (Previously Presented) The computer readable storage medium of claim 24 including receiving topic interest information from a website, and wherein the content item interest is detected in response to the topic interest information.



**X. EVIDENCE APPENDIX**

The appellant is not aware of any evidence.

**XI. RELATED PROCEEDING APPENDIX**

The appellant is unaware of any related proceeding.